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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/800,273 | 03/05/2001 | Mark W. Publicover | 5578-58206/RJP | 3749 |

7590 05/20/2005

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EXAMINER

DONNELLY, JEROME W

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3764

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,273

Applicant(s)

PUBLICCOVER ET AL.

Examiner

Jerome W Donnelly

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☒ ~~This action is non-final.~~
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 65-71 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 65-71 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JEROME W. DONNELLY
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 65-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey.

Bailey discloses a trampoline device comprising a frame, a plurality of legs extending upwardly from the frame a mat coupled to the frame by a plurality of springs, and expanse of flexible material supported by such independent poles.

Bailey however does not disclose his device as specifically five to eight feet above the rebounding mat surface.

The examiner notes however that in view of the standard distance between of Bailey shown in fig. 1 and that to take the height of the ladder and compare it to the height of the poles shown in fig. 1 the pole members would fall into a height range of about five to eight feet.

As to applicants claims of the poles being independent the claims are so broad so as to read on every other pole member of the device, so as to encompass the language of independent.

As to applicants claims in claim 65 as to one end of each of the pole members terminating at an end positioned above the mat and one end terminating below said

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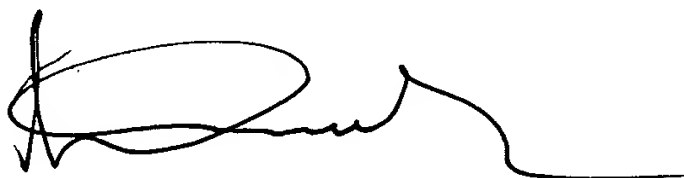
mat, and as to claim 70 wherein at least one of the poles has both ends positioned below the rebounding mat, the examiner notes that it is unclear as to how each of the ends of claim 65 can be positioned as claimed in claim 65 and as positioned in claim 70.

The examiner further notes that to manufacture inverted U-shaped frame/pole members of separate vertical members and horizontal members is shown and made obvious in view of the disclosure of Coin et al element 32 and 34. The inverted U-shaped of Bailey meets the language of claim 65 if manufactured in a inverted U-shape as disclose by the sectional manufactured U-shape of Coan et al, there by having ends which terminate above the mat surface.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Donnelly/PJ

5/9/05

A handwritten signature in black ink, appearing to read 'Jerome W. Donnelly', with a long horizontal line extending to the right.

JEROME W. DONNELLY
PRIMARY EXAMINER